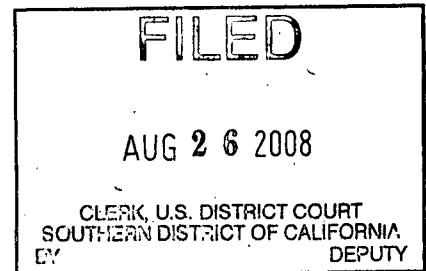


KAREN P. HEWITT  
United States Attorney  
WILLIAM A. HALL, JR.  
Assistant U.S. Attorney  
California State Bar No. 253403  
Federal Office Building  
880 Front Street, Room 6293  
San Diego, California 92101-8893  
Telephone: (619) 557-7046



6 Attorneys for Plaintiff  
United States of America

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF MATERIAL  
WITNESS AND ORDER THEREON**

16           **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
17           OF AMERICA, by and through its counsel, KAREN P. HEWITT, United States Attorney, and  
18           William A. Hall, Jr., Assistant United States Attorney, and Defendant SAUL GARCIA-  
19           ALCANTAR, by and through and with the advice and consent of defense counsel, Jack J. Boltax,  
20           Esq., that:

21       1. Defendant agrees to execute this stipulation on or before the disposition date and to  
22 participate in a full and complete inquiry by the Court into whether Defendant knowingly,  
23 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to Count 2 of  
24 the Indictment which charges Defendant with a non-mandatory minimum count of Bringing in  
25 Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii)  
26 and 18 U.S.C. § 2.

1           2. Defendant agrees to plead guilty to the charge described above pursuant to the plea  
2 agreement on or before August 22, 2008.

3           3. The material witness, Nancy Alvarez-Acha, in this case:

4               a. Is an alien with no lawful right to enter or remain in the United States;  
5               b. Entered or attempted to enter the United States illegally on or about July 10,  
6 2008;

7               c. Was found in a vehicle driven by Defendant at the San Ysidro, California  
8 Port of Entry ("POE"), and that Defendant knew or acted in reckless disregard of the fact that she  
9 was an alien with no lawful right to enter or remain in the United States;

10              d. Was paying, or having others pay on her behalf, \$3,000 USD to Defendant  
11 or others to be brought into the United States illegally and/or transported illegally to her destination  
12 therein; and,

13              e. May be released and remanded immediately to the Department of Homeland  
14 Security for return to her country of origin.

15           4. After the material witnesses are ordered released by the Court pursuant to this  
16 stipulation and joint motion, if Defendant does not plead guilty to the charge set forth above, for  
17 any reason, or thereafter withdraws his guilty plea to that charge, Defendant agrees that in any  
18 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
19 attack, that:

20               a. The stipulated facts set forth in paragraph 3 above shall be admitted as  
21 substantive evidence;

22               b. The United States may elicit hearsay testimony from arresting agents  
23 regarding any statements made by the material witness provided in discovery, and such testimony  
24 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against  
25 interest of an unavailable witness or witnesses; and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), “testimonial” hearsay statements are not admissible against a defendant unless the defendant confronted and cross-examined the witness or witnesses who made the “testimonial” hearsay statements, Defendant waives the right to confront and cross-examine the material witness in this case.

5. By signing this stipulation and joint motion, Defendant certifies that Defendant has read it (or that it has been read to Defendant in Defendant's native language). Defendant certifies further that Defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness to the Department of Homeland Security for return to her country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

Dated: 8/26/05

**Assistant United States Attorney**

Dated: 8/19/09

JACK J. BOLTAX, ESQ.  
Defense Counsel

Dated: 8/19/09

**SAUL GARCIA-ALCANTAR**  
**Defendant**

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ORDER

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Upon joint application and motion of the parties, and for good cause shown,

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**THE STIPULATION** is admitted into evidence, and,

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**IT IS ORDERED** that the above-named material witness be released and remanded  
forthwith to the Department of Homeland Security for return to her country of origin.

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**SO ORDERED.**

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Dated:

8/26/08

  
United States Magistrate Judge

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